

MAR 23 2009

**Board of Vocational Nursing  
and Psychiatric Technicians**

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**BEFORE THE  
BOARD OF VOCATIONAL NURSING AND PSYCHIATRIC TECHNICIANS  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. PT-2006-2333

**MARCELO NAVARRETE TORRES**  
429 Marin Street  
Avenal, California 93204

**A C C U S A T I O N**

Psychiatric Technician License No. PT 32537

Respondent.

Teresa Bello-Jones, J.D., M.S.N., R.N. ("Complainant") alleges:

**PARTIES**

1. Complainant brings this Accusation solely in her official capacity as the Executive Officer of the Board of Vocational Nursing and Psychiatric Technicians ("Board"), Department of Consumer Affairs.

**Psychiatric Technician License**

2. On or about February 8, 2005, the Board issued Psychiatric Technician License No. PT 32537 to Marcelo Navarrete Torres ("Respondent"). The psychiatric technician license expired on March 31, 2008.

**STATUTORY PROVISIONS**

3. Section 4520 of the Business and Professions Code ("Code") provides, in pertinent part, that the Board may discipline any licensed psychiatric technician for any reason

1 provided in Article 3 (commencing with Code section 4520) of the Psychiatric Technicians Law  
2 (Code § 4500, et. seq.)

3 4. Code section 118, subdivision (b) provides, in pertinent part, that the  
4 expiration of a license shall not deprive the Board jurisdiction to proceed with a disciplinary  
5 action during the period within which the license may be renewed, restored, reissued or  
6 reinstated. Under Code section 4545, the Board may renew an expired license at any time within  
7 four years after the expiration.

8 5. Code section 490 states, in pertinent part:

9 (a) In addition to any other action that a board is permitted to take against  
10 a licensee, a board may suspend or revoke a license on the ground that the licensee  
11 has been convicted of a crime, if the crime is substantially related to the  
12 qualifications, functions, or duties of the business or profession for which the  
13 license was issued.

14 (b) Notwithstanding any other provision of law, a board may exercise any  
15 authority to discipline a licensee for conviction of a crime that is independent of  
16 the authority granted under subdivision (a) only if the crime is substantially  
17 related to the qualifications, functions, or duties of the business or profession for  
18 which the licensee's license was issued.

19 (c) A conviction within the meaning of this section means a plea or verdict  
20 of guilty or a conviction following a plea of nolo contendere. Any action that a  
21 board is permitted to take following the establishment of a conviction may be  
22 taken when the time for appeal has elapsed, or the judgment of conviction has  
23 been affirmed on appeal, or when an order granting probation is made suspending  
24 the imposition of sentence, irrespective of a subsequent order under the  
25 provisions of Section 1203.4 of the Penal Code.

26 6. Code section 4521 states, in pertinent part:

27 The board may suspend or revoke a license issued under this chapter  
28 [the Psychiatric Technicians Law (Bus. & Prof Code, 4500, et seq.)) for any of  
the following reasons:

(a) Unprofessional conduct, which includes but is not limited to any of  
the following:

(5) Use any controlled substance as defined in Division 10  
(commencing with Section 11000) of the Health and Safety Code, or any  
dangerous drug as defined in Section 4022, or alcoholic beverages, to an extent  
or in a manner dangerous or injurious to himself or herself, any other person, or  
the public or to the extent that the use impairs his or her ability to conduct with  
safety to the public the practice authorized by his or her license.

1 (f) Conviction of any offense substantially related to the qualifications,  
2 functions, and duties of a psychiatric technician, in which event the record of  
3 the conviction shall be conclusive evidence of the conviction. The board may  
4 inquire into the circumstances surrounding the commission of the crime in  
5 order to fix the degree of discipline.

6 7. Code section 4523 states:

7 A plea or verdict of guilty or a conviction following a plea of nolo  
8 contendere made to a charge substantially related to the qualifications,  
9 functions and duties of a psychiatric technician is deemed to be a conviction  
10 within the meaning of this article. The board may order the license suspended  
11 or revoked or may decline to issue a license, when the time for appeal has  
12 lapsed, or the judgment or conviction has been affirmed on appeal or when an  
13 order granting probation is made suspending the impositions of sentence,  
14 irrespective of a subsequent order under the provisions of Section 1203.4 of the  
15 Penal Code allowing the person to withdraw his plea of guilty to enter a plea of  
16 not guilty, or setting aside the verdict of guilty, or dismissing the accusation,  
17 information, or indictment.

#### 18 COST RECOVERY

19 8. Code section 125.3 provides, in pertinent part, that a Board may request  
20 the administrative law judge to direct a licensee found to have committed a violation or  
21 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation  
22 and enforcement of the case.

#### 23 FIRST CAUSE FOR DISCIPLINE

##### 24 (Criminal Convictions)

25 9. Respondent is subject to discipline under Code sections 4521, subdivision  
26 (f) and 490, in that Respondent has been convicted of the following crimes that are substantially  
27 related to the qualifications, functions or duties of a licensed psychiatric technician:

28 a. On August 20, 2007, in the Superior Court, County of Kings, California,  
in the case titled *People of the State of California vs. Marcelo Navarrete Torres*, (Super. Ct.,  
Kings Cty., 2007, Case No. 07CM8759), Respondent was convicted by the court on his plea of  
guilty of violating Penal Code section 594, subdivision (a) [vandalism], a misdemeanor, which  
included an enhancement pursuant to Penal Code section 186.22, subdivision (b)(1) [offense  
committed for the benefit of, at the direction of, and in association with a criminal street gang].  
The circumstances of the crime are that on or about June 10, 2007, Respondent was arrested  
following an altercation involving Respondent and several other males in which gang signs were

1 flashed. The group then pursued J.R., and during said pursuit Respondent and the other males  
2 threw beer bottles at and around J.R. in the garage of his residence, breaking the bottles on the  
3 garage door and garage floor leading to the residence. Among other things, Respondent was  
4 sentenced to serve time in State Prison and pay fees, fines, and restitution.

5           b.       On March 9, 2007, in the Superior Court, County of Kings, California, in  
6 the case titled *People of the State of California vs. Marcelo Navarrete Torres*, (Super. Ct., Kings  
7 Cty., 2007, Case No. 07CM8616), Respondent was convicted by the court on his plea of guilty of  
8 violating Vehicle Code section 23152, subdivision (b) [unlawfully drive a vehicle with 0.08%  
9 and more by weight, of alcohol in the blood], a misdemeanor. The circumstances of the crime  
10 are that on or about January 27, 2007, Respondent was arrested for being under the influence of  
11 alcohol. Among other things, Respondent was sentenced to serve time in County Jail, three years  
12 conditional release probation, and pay fees, fines, and restitution.

### 13                               **SECOND CAUSE FOR DISCIPLINE**

#### 14                   **(Use a Controlled Substance to Extent or Manner Dangerous or Injurious)**

15           10.       Respondent is subject to discipline under Code section 4521, subdivision  
16 (5), on the grounds of unprofessional conduct, in that on or about January 27, 2007, Respondent  
17 used alcoholic beverages to an extent or in a manner dangerous or injurious to himself or others,  
18 as more particularly set forth in paragraph 8, subparagraph b, above.

### 19                               **PRAYER**

20                   **WHEREFORE**, Complainant requests that a hearing be held on the matters  
21 herein alleged, and that following the hearing, the Board of Vocational Nursing and Psychiatric  
22 Technicians issue a decision:

23                   1.       Revoking or suspending Psychiatric Technician License Number PT  
24 32537, issued to Marcelo Navarrete Torres;

25                   2.       Ordering Marcelo Navarrete Torres to pay the Board of Vocational  
26 Nursing and Psychiatric Technicians the reasonable costs of the investigation and enforcement of  
27 this case, pursuant to Code section 125.3; and

28       ///

1                   3.     Taking such other and further action as deemed necessary and proper.

2  
3     DATED: March 23, 2009

4  
5                   

6                   TERESA BELLO-JONES, J.D., M.S.N., R.N.

7                   Executive Officer

8                   Board of Vocational Nursing and Psychiatric Technicians

9                   Department of Consumer Affairs

10                  State of California

11                  Complainant